

REMARKS

Applicants thank the Examiner for a thorough consideration of the pending claims. In this paper, Claims 23 and 28 have been amended and new Claims 33-59 have been added. Accordingly, Claims 1-59 are presently pending.

In the Office Action, the Examiner has rejected Claims 23, 26-28, 31 and 32 under 35 U.S.C. § 103(a) as being unpatentable over Regennitter et al (U.S. Patent No. 4,278,841) in view of Pellerin (U.S. Patent No. 6,411,916). Applicants respectfully traverse the rejection.

Claims 23 and 28 recite a food product index determined as a function of a frequency and severity of product temperature-condition. The prior art cited by the Examiner fails to teach or suggest such a food product index. Further, Applicants state that the prior art fails to teach any type of food product index as the count of the "too hot" signal is a "count," as opposed to a "index." Nonetheless, in view of the Examiner's rather broad interpretation of the Regennitter "count," Applicants have amended the claim to more precisely indicate a food product index. Because Applicants view the Examiner as having improperly defined the term "index," Applicants state that the amended claim language should not be narrowly construed, and that broader meanings under the doctrine of equivalents is proper.

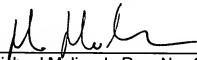
Applicants thank the Examiner for the indication of allowable subject matter. New Claims 52-59 generally reflect the allowable subject matter indicated by the Examiner, but Applicants have broadened the scope of independent Claims 52, 54, 56 and 58 to recite the safety and quality factors separately from the bacteria count features. Applicants believe these claims are in condition for allowance.

Applicants have reviewed the Examiner's statement of reasons for the indication of allowable subject matter and agree that the prior art fails to teach a system or method that includes determining a food product index as a function of a frequency and severity of product-temperature condition information, but also believe that the prior art fails to teach determining a food product index generally. In light of the allowable subject matter, however, Applicants have added new Claims 33-51, reciting the feature of calculating a food product index as a function of a frequency and severity of the product-temperature condition information.

CONCLUSION

It is believed that all of the stated grounds of rejection have been properly traversed, accommodated, or rendered moot. Applicants therefore respectfully request that the Examiner reconsider and withdraw all presently outstanding rejections. It is believed that a full and complete response has been made to the outstanding Office Action, and as such, the present application is in condition for allowance. Thus, prompt and favorable consideration of this amendment is respectfully requested. If the Examiner believes that personal communication will expedite prosecution of this application, the Examiner is invited to telephone the undersigned at (248) 641-1600.

Respectfully submitted,

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